

# **Minutes**

## **7-9-12**

**TENNESSEE MOTOR VEHICLE COMMISSION  
BOARD MEETING  
JULY 9, 2012 10:30 A.M.  
CONFERENCE ROOM 160  
DAVY CROCKETT TOWER, 500 JAMES ROBERTSON PKWY.  
NASHVILLE, TENNESSEE 37243**

**ROLL CALL:**

	<u><b>PRESENT</b></u>	<u><b>ABSENT</b></u>
<b>EDDIE ROBERTS</b>	<b>X</b>	
<b>REED TRICKETT</b>	<b>X</b>	
<b>GEORGE BASS</b>	<b>X</b>	
<b>JOE CLAYTON</b>	<b>X</b>	
<b>KEVIN CULLUM</b>	<b>X</b>	
<b>DONNIE HATCHER</b>	<b>X</b>	
<b>NATE JACKSON</b>	<b>X</b>	
<b>CHAD JONES</b>	<b>X</b>	
<b>DON PARR</b>	<b>X</b>	
<b>STAN MCNABB</b>	<b>X</b>	
<b>FARRAR SCHAEFFER</b>	<b>X</b>	
<b>MARK PIRTLE</b>	<b>X</b>	
<b>RONNIE FOX</b>	<b>X</b>	
<b>WADE HINTON</b>	<b>X</b>	
<b>LYNN WEBB</b>		

The Tennessee Motor Vehicle Commission Meeting was called to order by Chairman Eddie Roberts on July 9, 2012 Roll Call was taken with a total of (15) member's present.

**A Motion was made by Commissioner Joe Clayton, and seconded by Commissioner George Bass, to approve the minutes from the April 9, 2012 meeting.**

**MOTION PASSED UNANIMOUSLY**

**Adopt Agenda**

**Motion was passed unanimously to adopt the Agenda.**

**APPEALS**

The following appeals were heard by Commission.

James Dabney-Farris Motor Co., Jefferson City, TN  
Staff denied application

**Motion was made by Commissioner Stan McNabb, and seconded by Commissioner Nate Jackson to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	Yes
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion passed to grant the license.**

William Massengale-Toyota of Cleveland, McDonald, TN  
Staff denied application

**Motion was made by Commissioner Donnie Hatcher, and seconded by  
Commissioner Farrar Schaeffer to deny the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	Yes
Stan McNabb	Yes
Kevin Cullum	No
Lynn Webb	Yes

**Motion passed to deny the license.**

Larry M. Gray II-Rice Buick-GMAC Truck Inc., Knoxville, TN  
Staff denied application

**Motion was made by Commissioner Stan McNabb, and seconded by Commissioner  
Nate Jackson to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	No
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	No
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	No
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion passed to grant the license.**

Anthony Berry-Lawrence Family Motor Co. LLC  
Staff denied application

**Motion was made by Commissioner Reed Trickett, and seconded by Commissioner Stan McNabb to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Abstain
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	No
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	Yes
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion passed to grant the license.**

Keith E. Gatewood-Golden Circle Ford-Lincoln  
Staff denied application

**Motion was made by Commissioner Nate Jackson , and seconded by Commissioner Farrar Schaeffer, to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	No
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	No
Joe Clayton	Yes
Chad Jones	No
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion passed to grant the license.**

Joe Ben Arney, City Auto Sales, Murfreesboro, TN

Staff denied application

**Motion was made by Commissioner Wade Hinton, and seconded by Commissioner Nate Jackson to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Abstain
Joe Clayton	Yes
Chad Jones	Yes
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	No

**Motion was to grant the license.**

Jeremy Ryan Maurer-Wholesale Inc., Mt. Juliet, TN

Staff denied application

**Motion was made by Commissioner Ronnie Fox, and seconded by Commissioner Reed Trickett to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	No
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	No
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	No
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	No

**Motion was to grant the license.**

Kenneth West-Autoland USA at Smyrna, Smyrna, TN

Staff denied application

**Motion was made by Commissioner Joe Clayton, and seconded by Commissioner Ronnie Fox to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	No
George Bass	No
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	No
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion was made to grant the license.**

Chase K. Mitchell-Mitchell Motor Company, Madison, TN

Staff denied application

**Motion was made by Commissioner Donnie Hatcher, and seconded by Commissioner Nate Jackson to grant the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Yes
Nate Jackson	Yes
Donnie Hatcher	Yes
Farrar Schaeffer	Yes
Wade Hinton	Yes
Reed Trickett	Yes
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	No
Stan McNabb	Yes
Kevin Cullum	Yes
Lynn Webb	Yes

**Motion was made to grant the license.**

P-M Sales LLC, Mr. Mark Wallace, Tullahoma, TN

Staff denied application

**Motion was made by Commissioner Wade Hinton, and seconded by Commissioner Farrar Schaeffer to deny the license.**

**ROLL CALL VOTE**

Eddie Roberts	Yes
George Bass	Yes
Ronnie Fox	Yes
Don Parr	Abstain
Nate Jackson	Abstain
Donnie Hatcher	Yes
Farrar Schaeffer	Abstain
Reed Trickett	Abstain
Mark Pirtle	Yes
Joe Clayton	Yes
Chad Jones	Abstain
Stan McNabb	Yes
Kevin Cullum	No
Lynn Webb	Yes

**Motion was made to deny the license.**

**DIRECTORS REPORT**

Since the last Commission meeting in April, 2012 the following actions have been taken:

Dealers Opened, or Relocated .....90

Active Licensees as of April 1, 2012

Dealers.....	3916
Applications in Process.....	45
Distributions/Manufacturers .....	165
Auctions.....	31
Representatives.....	553
Salespeople.....	14202
Dismantlers.....	331
RV Dealers.....	24
RV Manufacturers.....	55

Motor Vehicle Show Permits Issued Since April 9 2012, ...4

Revenue Received                      \$ 800.00

**Old Business**

None

**New Business**

None

**Legal Report before the Legal Review Committee**

**Attendance: Chairman-Nate Jackson, Farrar Schaeffer, Joe Clayton, Donnie Hatcher, Mark Pirtle, Wade Hinton**

**Case No:        2012000221**

This complaint was generated as the result of a routine inspection of the business premises of Respondent on or about December 13, 2011, wherein multiple very serious violations and illegal activity were uncovered. Such violations consisted of expired city and county business licenses, signage issues, temporary tag misuse, temporary tag log violations, sales on open titles, possible sales tax fraud, Respondent selling vehicles on salvage titles, failure to maintain business records, etc. Subsequently, an investigation of Respondent was conducted by a team of Investigators from both this office and the Department of Revenue on or about March 1, 2012. The investigation provided evidence of 65 temporary tag violations, 145 vehicles sold prior to being rebuilt, 12 instances of misuse of dealer plates, 172 open titles, 17 excess temporary tags being issued to customers, 3 vehicles with no titles, 1 illegal repossession of a vehicle, 12 salvage certificates, expired business license, and no hours posted. A civil penalty for such numerous violations would add up to an amount of Three Hundred Seventy-Eight Thousand Five Hundred Dollars (\$378,500.00).

**Recommendation: Authorization for Summary Suspension to pursue Revocation of Respondent's motor vehicle dealer license.**

**Discussion:** Discussion ensued with Commission Attorney regarding the circumstances of the Investigation, describing how Investigators from Dept. of Commerce & Insurance were present with Investigators from Dept. of Revenue. The dealership was reported to still be in business, which the members were concerned about the ability of the MVC or Dept. of Revenue to stop their doing business. Attorney Baird indicated that in order to shut down, there must be a hearing. Commissioner Hinton asked the Attorney that if the allegations are so egregious wouldn't it warrant a suspension. Attorney Baird indicated a summary suspension is an action that would require a hearing on the license soon after the suspension was in place. Commissioner Jackson indicated that the recommendation from the Committee is for a summary suspension. A question arose as to the action Dept. of Revenue has taken. Attorney Baird indicated that the summary suspension would be turned over to a litigator for the department.

**Legal Review Committee Recommendation:** Summary suspension of Respondent's license.

**Case No:** 2012000251

Complainant alleged that Respondent was selling vehicles without a valid license to do so. Complainant also alleged several advertising violations by Respondent on its website. An investigation of Respondent was conducted on or about March 26, 2012, in order to determine whether Respondent was conducting unlicensed activity and to obtain a name and location for Respondent. The investigation found that Respondent was conducting unlicensed activity by acting as a motor vehicle dealer as defined in 55-17-102(16) without a license by soliciting/advertising the sell of motor vehicles on its website.

**Recommendation:** Authorization for a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) to be settled by Consent Order or Formal Hearing for unlicensed activity. Respondent will also be receiving an advertising warning for its first advertising violation within a one-year period.

**Discussion:** A question was asked on the exact number of violations occurring, which was found to be unknown. There was a question as to the maximum amount of civil penalty that could be assessed for on violation, which was indicated as \$5,000 from the Attorney. Commissioner Hatcher recommended a civil penalty in the amount of \$5,000.00.

**Legal Review Committee Recommendation:** Civil penalty in the amount of Five Thousand Dollars (\$5,000.00).

**Case No.: 2010021611**

This complaint originally came about in 2010 as a result of allegations of temporary tag misuse. Several attempts to discipline Respondent proved unsuccessful, and the location currently appeared to be closed. Respondent no longer holds a license as a motor vehicle dealer with the state of Tennessee. An investigation was requested, in order to travel to the location of Respondent to determine if it was still open and operating and if a business was still being run at the location. An investigation was conducted on or about March 13, 2012, and it was found that seventeen (17) vehicles had been sold since 2011 that were sold and titled under Respondent/dealership name without a valid license to do so. This constitutes seventeen (17) separate counts of unlicensed activity. In addition, Respondent admitted to loaning money to customers for them to shop for vehicles elsewhere, and Respondent held the note for the customers. Respondent was also allowing customers to trade in vehicles that they currently had financed with Respondent and swap them with other vehicles on Respondent's lot that it currently had in its inventory. Respondent did not maintain any paperwork on these "swapped" vehicles. Investigator also found four vehicles on Respondent's lot with dealer plates on them, and it appeared that the vehicles were currently being driven. This constitutes misuse of dealer plates on the part of Respondent.

**Recommendation: Authorization for a civil penalty in the amount of Nineteen Thousand Five Hundred Dollars (\$19,500.00) to be settled by Consent Order or Formal Hearing. {17 counts of unlicensed activity (\$1,000.00 per count) = \$17,000.00; financing money for customers to shop elsewhere = \$500.00 for deceptive acts; misuse of dealer plates x 4 (\$500.00 per violation) = \$2,000.00}.**

**Legal Review Committee Recommendation: Would like to issue a letter of warning.**

**Discussion: Question regarding the number of dealer plates misused and the dealership involved and the amount of the penalty imposed.**

**Legal Review Committee Recommendation: To change the amount of the civil penalty to Nineteen Thousand Five Hundred Dollars (\$19,500.00) and add a Letter of Warning to Legal's recommended actions.**

**Case No.: 2012006411**

Complainant alleged he purchased a vehicle from Respondent on December 17, 2011 and paid cash but never received title. Complainant alleged that in the process of awaiting title, Respondent issued him seven (7) temporary tags. Complainant also alleged that the vehicle had the wrong vehicle identification number. Complainant stated that he had contacted Respondent on the issue and that Respondent offered Complainant a 2-year warranty on the vehicle for all his trouble if he would just give Respondent more time on the title and not file

suit. Complainant allegedly never received title nor the warranty promised and claimed Respondent would not take his calls. An investigation of Respondent was conducted on or about June 1, 2012, wherein it was found by reviewing Respondent's temporary tag log that it issued more than two (2) tags to five different individuals, totaling sixteen (16) excess tags altogether. This constitutes sixteen (16) separate temporary tag violations. In addition, Respondent admitted that it still had not produced a title to Complainant's vehicle due to some financial trouble it was experiencing, which had, in turn, caused its bond company not to pay the floor planner. Thus, Respondent admitted that Complainant still do not receive title. Investigator attempted to achieve a sworn affidavit from Complainant, however, Complainant never produced an affidavit on the issues of the complaint, thus, the matter of the VIN and the 2-year warranty could not be addressed.

**Recommendation: Authorization for a civil penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) to be settled by Consent Order or Formal Hearing for temporary tag violations and failure to produce title.**

**Legal Review Committee Recommendation: Would also like to issue a Letter of Warning.**

**Case No.: 2012000401**

Complainant alleged she purchased a vehicle from Respondent on September 16, 2011 and did not receive title. Respondent claimed it is withholding registration until the Complainant pays the taxes on the vehicle. This office does not have record of any valid motor vehicle dealer license held by Respondent under its name or location, thus, Respondent was not licensed at the time the vehicle was sold to the Complainant. An investigation was conducted on or about April 4, 2012 to determine if Respondent was conducting unlicensed activity at its location and to what extent this unlicensed activity was taking place. The investigation showed that Complainant did receive her title on January 23, 2012. Respondent had vehicles for sale at its location, and Respondent owner stated that his main business is auto rental and leasing but occasionally he sells a vehicle without a rental or leasing agreement. Respondent owner stated that he "leased or sold" approximately sixty (60) vehicles in the past twelve months and provided a printout of all sales. Respondent was informed that in order to complete these transactions he must have a valid motor vehicle dealer license. Respondent owner provided a copy of his summary total for accounts receivable for the last twelve months which shows a total selling price of \$295,579.00. During investigation it was found that Respondent sold fifty (50) vehicles without a license and leased fifty (50) vehicles without a license. In addition, Respondent provided Investigator with a copy of the temporary tag it issues to customers, and it is not a legitimate state of Tennessee issued tag, rather it is simply a tag bearing Respondent's name.

**Recommendation: Authorization for a civil penalty in the amount of Fifty-One Thousand Dollars (\$51,000.00) to be settled by Consent Order or Formal Hearing for unlicensed activity and a fake temporary tag. {50 vehicles sold without a license (50 x \$500) = \$25,000; 50 vehicles leased without a license (50 x \$500) = \$25,000; fake temporary tag = \$1,000}**

**Legal Review Committee Recommendation: Would also like to Flag file.**

**Case No.: 2009020461**

At its April 2012 meeting, the Commission authorized a civil penalty against Respondent in the amount of One Thousand Five Hundred Dollars (\$1,500.00) for unlicensed activity in acting as a motor vehicle dealer without a valid license to do so that took place back in 2009. A Consent Order in that same amount was sent to Respondent on or about April 13, 2012, and the Consent Order was returned to this office unclaimed/unable to forward. This office does not have a proper address by which to serve Respondent with the Consent Order, and there is no proof of any activity by Respondent since 2009.

**Recommendation: No proper address for Respondent, and no proof of activity on the part of Respondent since 2009.**

**Discussion: Regarding whether the Respondent should be flagged in the system in case they ever apply for a license again.**

**Legal Review Committee Recommendation: Close and Flag the Respondent.**

**Case No: 2010027701**

At its February 2011 meeting, the Commission authorized a civil penalty against Respondent in the amount of Twenty Five Thousand Dollars (\$25,000.00) for temporary tag log violations. There were also issues surrounding Respondent's refusal to produce certain documents and creating a hostile environment for investigators. A Consent Order for that same amount was sent to Respondent on or about February 2011, and the Consent Order was contested by Respondent's Attorney, who sent this office copies of the temporary tag log sheets for the Respondent business covering the period from August 1, 2009 through September 29, 2011. After review of the new log, the discrepancies appeared to be corrected and the log kept in proper order.

**Recommendation: Authorization for a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) to be settled by Consent Order or Formal Hearing for failure to produce a correct log upon initial investigation in lieu of the previously authorized penalty in the amount of Twenty-Five Thousand Dollars (\$25,000.00)**

**Discussion: Regarding the amount of civil penalty assessed. Committee members were concerned over the Respondent's cooperation with the Commission. The Investigator had indicated that Respondent acted in a hostile manner and created a hostile environment for the Investigator.**

**Legal Review Committee Recommendation: Issuance of a civil penalty in the amount of Five Thousand Dollars (\$5,000.00).**

**Legal Report before Full Commission:**

**Case No. 2012000221**

**Committee recommendation Discussion- Attorney indicated the the recommendation from Attorney is for a formal hearing without a consent order. Legal Committee recommended to summarily suspend the license Attorney indicated that a summary suspension would require the Commission to meet soon after this suspension for a formal hearing. Commission Chairman confirmed with legal review chairman that the Committee approved the summary suspension.**

**Case No. 2012000251**

**Committee Recommendation Discussion- Attorney indicated that Committee recommended to change amount of civil penalty imposed to Five Thousand Dollars (\$5,000.00).**

**Case No. 2010021611**

**Committee Recommendation Discussion- Regarding legal review Committee recommended to change the amount of the civil penalty to Nineteen Thousand Five Hundred Dollars (\$19,500.00) and a letter of warning.**

**Case No. 2009020461**

**Committee Recommendation Discussion- Regarding Committee wanting to have the Respondent flagged for possible future license applications.**

**Case No. 2010027701**

**Committee Recommendation Discussion- Regarding the recommendation of Committee to increase civil penalty to the amount of Five Thousand Dollars (\$5,000.00) due to Investigator indicating Respondent created a hostile environment when attempting to obtain information during the Investigation.**

**Motion was made by Commissioner Chad Jones, and seconded by Nate Jackson to approve the legal report.**

**Motion made to adjourn was made Nate Jackson, and seconded by Chad Jones.**

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**Eddie Roberts, Chairman**

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**Leon Stribling, Executive Director**